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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,920	08/18/2003	Jose Represas De Almeida	65072-0145	3872

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EXAMINER

LE, HOA T

ART UNIT PAPER NUMBER

1773

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/642,920

Applicant(s)

DE ALMEIDA ET AL.

Examiner

H. T. Le

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2 and 4-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. In view of the amendment to claims 1-~~2~~ and 4-18, which removes the limitation of “moisture content”, the art rejections based on the Peiffer and Dickey patents is hereby reinstated as follows:

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### *Claim Rejections - 35 USC § 102*

3. Claims 1, 4, 10, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by the Peiffer patent (USP 5,064,407).

Claim 1: The Peiffer patent suggests an absorbent material comprising pellets containing corn residue in which the corn residue consists primarily chaff and woody ring (col. 2, lines 36-42).

Claim 4: See col. 3, lines 15-20.

Claim 10: See col. 2, lines 1-23.

Claim 12: The moisture content as claimed is considered met by inherency because the absorbent material taught in the Peiffer patent contains the same components as the claimed absorbent material and the method of making such absorbent material comprises process steps that are identical to the claimed method.

Claim 13: See col. 3, lines 15-20.

*Claim Rejections - 35 USC § 103*

4. Claims 5-9 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peiffer et al as applied to claims 1, 4, 10 and 13 above, and further in view of the Dickey patent (USP 4,519,340).

Claims 5, 8, 9, 14, 17 and 18: The Peiffer patent teaches a cellulose product containing an absorbent material as discussed above. The Dickey patent suggests a combination of corn residue and an active ingredient to provide deodorizing properties to an absorbent material. Therefore, it would have been obvious for one having ordinary skill in the art to incorporate an active ingredient in the composition taught by the Peiffer patent in order to provide additional desired properties to the absorbent material besides the absorbent properties.

Claims 6, 7, 15 and 16: The proportions of ingredients as claimed would have been obvious through routine experimentation.

5. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Peiffer patent as applied to claims 1, 4, 10 and 13 above, and further in view of the discussion below.

The Peiffer patent teaches an absorbent product as discussed above. Therefore, it would have been obvious for one having skilled in the art to apply the teaching of Peiffer to manufacture products that are absorbent such as napkins or toilet tissues as those recited in claims 2 and 11.

*Response to Amendment*

6. The terminal disclaimer filed March 16, 2005 is proper and has overcome the double patenting rejection set forth in the 1st office action. Accordingly, the double patenting rejection is hereby withdrawn.

7. The amendment filed March 16, 2005, which removes the limitation of moisture content, necessitates the reinstatement of the rejections set forth in the first office action (mailed August 28, 2004) as set forth above.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 571-272-1511. The examiner can normally be reached on 10:00 a.m. to 6:30 p.m., Mondays to Fridays.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



H. T. Le  
Primary Examiner  
Art Unit 1773